



New Jersey Office of the Attorney General

Division of Consumer Affairs

Audiology and Speech-Language Pathology Advisory Committee

Statutes and Regulations

As of February 2006

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TITLE 45. PROFESSIONS AND OCCUPATIONS

**SUBTITLE 1. PROFESSIONS AND OCCUPATIONS SUBJECT TO STATE BOARDS OF
REGISTRATION AND EXAMINATION**

CHAPTER 1. GENERAL PROVISIONS

ARTICLE 1. PERSONS ENTITLED TO PRACTICE UNDER FORMER LAWS

45:1-1. Persons entitled to practice, etc. under former laws unaffected

Any person now entitled to practice any profession or to engage in any occupation, governed or regulated by the provisions of this title by virtue of any prior law, shall continue to be entitled to practice or engage in the same, notwithstanding the enactment of this title, and the validity of any license or other authorization to practice any such profession or to engage in any such occupation, heretofore issued to any person under any prior law, or of any proceeding pending to obtain such a license or authorization shall not be affected by the enactment of this title but all such persons shall in all other respects be subject to the provisions of this title.

45:1-2.1. Applicability of act

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Public Movers and Warehousemen and the State Board of Physical Therapy Examiners.

45:1-2.2. Membership of certain boards and commissions; appointment, removal, quorum

- a. All members of the several professional boards and commissions shall be appointed by the Governor in the manner prescribed by law; except in appointing members other than those appointed pursuant to subsection b. or subsection c., the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the appropriate professional organizations of this State.
- b. In addition to the membership otherwise prescribed by law, the Governor shall appoint in the same manner as presently prescribed by law for the appointment of members, two additional members to represent the interests of the public, to be known as public members, to each of the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of

Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Social Work Examiners, and the State Board of Veterinary Medical Examiners, and one additional public member to each of the following boards: the Board of Examiners of Electrical Contractors, the State Board of Marriage and Family Therapy Examiners, the State Board of Examiners of Master Plumbers, and the State Real Estate Appraiser Board. Each public member shall be appointed for the term prescribed for the other members of the board or commission and until the appointment of his successor. Vacancies shall be filled for the unexpired term only. The Governor may remove any such public member after hearing, for misconduct, incompetency, neglect of duty or for any other sufficient cause.

No public member appointed pursuant to this section shall have any association or relationship with the profession or a member thereof regulated by the board of which he is a member, where such association or relationship would prevent such public member from representing the interest of the public. Such a relationship includes a relationship with members of one's immediate family; and such association includes membership in the profession regulated by the board. To receive services rendered in a customary client relationship will not preclude a prospective public member from appointment. This paragraph shall not apply to individuals who are public members of boards on the effective date of this act.

It shall be the responsibility of the Attorney General to insure that no person with the aforementioned association or relationship or any other questionable or potential conflict of interest shall be appointed to serve as a public member of any board regulated by this section.

Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process; provided, however, that public members shall be given notice of and may be present at all such examination processes and deliberations concerning the results thereof, and, provided further, that public members may participate in the development and establishment of the procedures and criteria for such examination processes.

- c. The Governor shall designate a department in the Executive Branch of the State Government which is closely related to the profession or occupation regulated by each of the boards or commissions designated in section 1 of P.L.1971, c.60 (C.45:1-2.1) and shall appoint the head of such department, or the holder of a designated office or position in such department, to serve without compensation at the pleasure of the Governor as a member of such board or commission.
- d. A majority of the voting members of such boards or commissions shall constitute a quorum thereof and no action of any such board or commission shall be taken except upon the affirmative vote of a majority of the members of the entire board or commission.

45:1-2.3. Qualifications; rights and duties

Such additional members:

- a. Need not meet the educational and professional requirements for membership on such boards or commissions as provided in the several statutes establishing such boards and commissions; and
- b. Shall be voting members subject to the same rights, obligations and duties as other members of their respective boards or commissions.

45:1-2.4. Effect of act on term of member in office

Nothing in this act shall affect the right of a board or commission member in office on the effective date of this act to continue to serve for the term for which he was appointed.

45:1-2.5. Compensation and reimbursement of expenses of members; executive secretaries; compensation and terms; office and meeting places

With respect to the boards or commissions designated in section 1 of P.L.1971, c.60 (C.45:1-2.1), except as otherwise provided in subsection d. of this section, and notwithstanding the provisions of any other law:

- a. The officers and members shall be compensated on a per diem basis in the amount of \$ 25.00 or an amount to be determined by the Attorney General, with the approval of the State Treasurer, but not to exceed \$ 100.00 per diem or \$ 2,500.00 annually, and shall be reimbursed for actual expenses reasonably incurred in the performance of their official duties. Such moneys shall be paid according to rules and regulations promulgated by the Attorney General.
- b. The executive secretary shall receive such salary as shall be determined by the appointing authority within the limits of available appropriations and shall serve at its pleasure. Any such executive secretary who holds a certificate, license or registration issued by the board or commission by which he is employed shall not during such employment be permitted to engage in any profession or occupation regulated by the board or commission.
- c. The head of the department to which such board or commission is assigned shall maintain within any public building, whether owned or leased by the State, suitable quarters for the board's or commission's office and meeting place, provided that no such office or meeting place shall be within premises owned or occupied by an officer or member of such board or commission.
- d. The compensation schedule for members of boards and commissions provided in subsection a. of this section shall not apply to the members of the New Jersey Real Estate Commission, who shall be compensated pursuant to R.S. 45:15-6 or to members of the State Board of Medical Examiners who shall receive compensation of \$ 150 per diem.

45:1-2.6. Inapplicability of act to rights under civil service or any pension law or retirement system

Nothing in this act shall deprive any person of any tenure rights or of any right or protection provided him by Title 11 of the Revised Statutes, Civil Service, or any pension law or retirement system.

45:1-3. Expenses of boards paid from income; surplus paid to state treasurer; accounts

Each member of the boards mentioned in section 45:1-2 of this title shall be entitled to his actual traveling and other expenses incurred in the performance of his duties, which sum shall be paid from the license fees and other sources of income of such boards. Such boards shall also be entitled to expend from their income such sums as shall be necessary to defray all proper expenses incurred by them in the performance of their duties, including the compensation of any of their officers or agents whom they are authorized to compensate. Such boards, if authorized to collect an annual registration or license fee from persons licensed by them, may retain in their treasuries the fees so collected and use the same for the purpose of defraying the expenses of securing evidence against and prosecuting persons violating the provisions of the laws with the enforcement of which they are charged, or, in case the revenue of the boards from other sources shall be insufficient to pay the salary of their secretaries and their other expenses, such fees may be expended for such purposes. Such boards shall be entitled to retain, in addition to the above, at least one hundred dollars in their treasuries for the purpose of preparing and holding their examinations. On or before October thirty-first in each year such boards shall pay to the state treasurer all moneys remaining in their treasuries, except as above stated, which sum, when so paid, shall form a part of the state fund. Such boards shall keep accurate accounts of their receipts and expenditures, which accounts shall be subject to audit by the state comptroller.

45:1-3.1. Applicability of act

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the New Jersey Cemetery Board, the State Board of Social Work Examiners and the State Board of Physical Therapy Examiners.

45:1-3.2. Charges for examinations, licensures and other services; establishment or change by rule; standards

Notwithstanding the provisions of Title 45 of the Revised Statutes or any other law to the contrary, any board or commission named in section 1 of this supplementary act may by rule establish, prescribe or change the charges for examinations, licensures and other services it performs, which rule shall first be approved by the head of the department to which such board or commission is assigned and shall be adopted in accordance with the provisions of the “Administrative Procedure Act,” P.L.1968, c. 410 (c. 52:14B-1).

Any board’s or commission’s charges established, prescribed or changed pursuant to this section shall be established, prescribed or changed to such extent as shall be necessary to defray all proper expenses incurred by the board or commission in the performance of its duties but such charges shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

45:1-3.3. Administrative fees

The Director of the Division of Consumer Affairs may by rule establish, prescribe, or modify administrative fees charged by boards in accordance with the “Administrative Procedure Act,” P.L. 1968, c. 410 (C. 52:14B-1 et seq.). For purposes of this section, “administrative fees” are charges assessed to licensees, registrants or holders of certificates, as the case may be, for board functions that are not unique to a particular board but are uniform throughout all boards. Administrative fees include, but are not limited to, fees for a duplicate or replacement license, certification or registration, late renewal fee, license reinstatement fee, and the fee for processing change of address.

45:1-4. Salary of secretary

The secretary of each of the boards mentioned in section 45:1-2 of this title, whether or not a member thereof, shall be entitled to receive such reasonable salary or compensation for his services as secretary as shall be fixed by such boards, which shall be paid by the boards from their receipts, unless an appropriation is made for the expenses of such boards, in which case the same shall be paid from such appropriation.

45:1-7. Issuance of certain licenses or certificates of registration

Notwithstanding any of the provisions of Title 45 of the Revised Statutes or of any other law to the contrary, all professional or occupational licenses or certificates of registration, except such licenses or certificates issued to real estate brokers or salesmen pursuant to chapter 15 of Title 45, which prior to the effective date of this act were issued for periods not exceeding one year and were annually renewable, shall, on and after the effective date of this act, be issued for periods of two years and be biennially renewable, except that licenses and business permits issued to electrical contractors and certificates of registration issued to qualified journeymen electricians pursuant to chapter 5A of Title 45 shall be issued for periods of three years and be triennially renewable; provided, however, the boards or commissions in charge of the issuance or renewal of such licenses or certificates may, in order to stagger the expiration dates thereof, provide that those first issued or renewed after the effective date of this act, shall expire and become void on a date fixed by the respective boards or commissions, not sooner than six months nor later than 29 months, after the date of issue. The fees for the respective licenses and certificates of registration issued pursuant to this act for periods of less or greater than one year shall be in amounts proportionately less or greater than the fees established by law.

45:1-7.1. Applicability of act; renewals; reinstatements

- a. Notwithstanding any other act or regulation to the contrary, the provisions of this section and sections 6 and 7 of P.L. 1999, c. 403 (C. 45:1-7.2 and C. 45:1-7.3) shall apply to every holder of a professional or occupational license or certificate of registration or certification issued or renewed by a board specified in section 2 of P.L. 1978, c. 73 (C. 45:1-15), who seeks renewal of that license or certificate.
- b. Every holder of a professional or occupational license or certificate of registration or certification, issued or renewed by a board specified in section 2 of P.L. 1978, c. 73 (C. 45:1-15), who seeks renewal shall submit a renewal application and pay a renewal fee prior to the date of expiration of the license or certificate of registration or certification. If the holder does not renew the license or certificate prior to its expiration date, the holder may renew it within 30 days of its expiration date by submitting a renewal application and paying a renewal fee and a late fee. Any professional or occupational license or certificate of registration or certification not renewed within 30 days of its expiration date shall be suspended without a hearing.
- c. Any individual who continues to practice with an expired license or certificate of registration or certification after 30 days following its expiration date shall be deemed to be engaged in unlicensed practice of the regulated profession or occupation, even if no notice of suspension has been provided to the individual.
- d. A professional or occupational license or certificate of registration or certification suspended pursuant to this section may be reinstated within five years following its date of expiration upon submission of a renewal application and payment of an additional reinstatement fee. An applicant seeking reinstatement of a license or certificate suspended pursuant to this section more than five years past its expiration date shall successfully complete the examination required for initial licensure, registration or certification and submit a renewal application and payment of an additional reinstatement fee.
- e. A board specified in section 2 of P.L. 1978, c. 73 (C. 45:1-15) shall send a notice of renewal to each of its holders of a professional or occupational license or certificate of registration or certification, as applicable, at least 60 days prior to the expiration of the license or certificate. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.

45:1-7.2. Reinstatement of license, registration, or certification

A board may reinstate the professional or occupational license or certificate of registration or certification of an applicant whose license or certificate has been suspended pursuant to section 5 of P.L. 1999, c. 403 (C. 45:1-7.1), provided that the applicant otherwise qualifies for licensure, registration or certification and submits the following upon application for reinstatement:

- a. Payment of all past delinquent renewal fees;
- b. Payment of a reinstatement fee;
- c. An affidavit of employment listing each job held during the period of suspended license, registration or certification which includes the names, addresses, and telephone numbers of each employer; and
- d. If applicable, satisfactory proof that the applicant has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license or certificate of registration or certification.

45:1-7.3. Active, inactive options on renewal applications

- a. Renewal applications for all professional or occupational licenses or certificates of registration or certification shall provide the applicant with the option of either active or inactive renewal. A renewal applicant electing to renew as inactive shall not engage in professional or occupational practice within the State.
- b. An applicant who selects the inactive renewal option shall remain on inactive status for the entire renewal period unless, upon application to the board, the board permits the inactive applicant to return to active status provided such applicant presents satisfactory proof that he has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license, registration or certification, if applicable. The continuing education hours or credits shall be completed by the applicant within three years prior to the date of application for the return to active status, unless otherwise provided by board rule.

45:1-8. Contractors; application of § 45:1-9

The provisions of this act apply to the following classes of contractors:

- a. Tree experts, certified pursuant to P.L.1940, c. 100 (C. 13:1-28 et seq.);
- b. Home repair contractors, licensed pursuant to P.L.1960, c. 41 (C. 17:16C-62 et seq.);
- c. Electrical contractors, licensed pursuant to P.L.1962, c. 162 (C. 45:5A-1 et seq.);
- d. Master plumbers, licensed pursuant to P.L.1968, c. 362 (C. 45:14C-1 et seq.);
- e. Well drillers, licensed pursuant to P.L.1947, c. 377 (C. 58:4A-5 et seq.); and
- f. Any class of contractors who hereafter are licensed by the State.

45:1-9. Indication of license or certificate number on contracts, bids and advertisements

Any contractor licensed by the State shall indicate his license or certificate number on all contracts, subcontracts, bids and all forms of advertising as a contractor.

45:1-10. Agreement by physician, podiatrist or chiropractor for payments to laboratory for tests without disclosure to patient and third party payors

It shall be unlawful for any person licensed in the State of New Jersey to practice medicine or surgery,

dentistry, osteopathy, podiatry or chiropractic to agree with any clinical, bio-analytical or hospital laboratory, wheresoever located, to make payments to such laboratory for individual tests, combination of tests, or test series for patients unless such person discloses on the bills to patients and third party payors the name and address of such laboratory and the net amount or amounts paid or to be paid to such laboratory for individual tests, combination of tests or test series.

45:1-10.1. Responsibility of health care professionals for filing claims

Effective 12 months after the adoption of regulations establishing standard health care enrollment and claim forms by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23), a health care professional licensed pursuant to Title 45 of the Revised Statutes is responsible for filing all claims for third party payment, including claims filed on behalf of the licensed professional's patient for any health care service provided by the licensed professional that is eligible for third party payment, except that at the patient's option, the patient may file the claim for third party payment.

- a. In the case of a claim filed on behalf of the professional's patient, the professional shall file the claim within 60 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23).
- b. In the case of a claim in which the patient has assigned his benefits to the professional, the professional shall file the claim within 180 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23). If the professional does not file the claim within 180 days of the last date of service for a course of treatment, the third party payer shall reserve the right to deny payment of the claim, in accordance with regulations established by the Commissioner of Banking and Insurance, and the professional shall be prohibited from seeking any payment directly from the patient.
 - (1) In establishing the standards for denial of payment, the Commissioner of Banking and Insurance shall consider the good faith use of information provided by the patient to the professional with respect to the identity of the patient's third party payer, delays in filing a claim related to coordination of benefits between third party payers and any other factors the commissioner deems appropriate, and, accordingly, shall define specific instances where the sanctions permitted pursuant to this subsection shall not apply.
 - (2) A professional who fails to file a claim within 180 days and whose claim for payment has been denied by the third party payer in accordance with this subsection may, in the discretion of a judge of the Superior Court, be permitted to refile the claim if the third party payer has not been substantially prejudiced thereby. Application to the court for permission to refile a claim shall be made within 14 days of notification of denial of payment and shall be made upon motion based upon affidavits showing sufficient reasons for the failure to file the claim with the third party payer within 180 days.
- c. The provisions of this section shall not apply to any claims filed pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.).
- d. A health care professional who violates the provisions of subsection a. of this section may be subject to a civil penalty of \$ 250 for each violation plus \$ 50 for each day after the 60th day that the provider fails to submit a claim. The penalty shall be sued for and collected by the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

45:1-11. Violations; penalty

Any person violating this act shall be guilty of a misdemeanor.

45:1-12. Extra fee for completion of medical claim form by podiatrist, optometrist or psychologist; penalty

No podiatrist, optometrist or psychologist and no professional service corporation engaging in the practice of podiatry, optometry or psychology in this State shall charge a patient an extra fee for services rendered in completing a medical claim form in connection with a health insurance policy. Any person violating this act shall be subject to a fine of \$ 100.00 for each offense. Such penalty shall be collected and enforced by summary proceedings pursuant to “the penalty enforcement law” (N.J.S. 2A:58-1 et seq.). The Superior Court and municipal court shall have jurisdiction within its territory of such proceedings. Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the State Board of Medical Examiners with respect to podiatrists, the New Jersey State Board of Optometry for optometrists or the State Board of Psychological Examiners for psychologists.

45:1-13. Repealed by L. 1999, c. 403, 12, effective January 18, 2000.**45:1-14. Legislative findings and declarations; liberal construction of act**

The Legislature finds and declares that effective implementation of consumer protection laws and the administration of laws pertaining to the professional and occupational boards located within the Division of Consumer Affairs require uniform investigative and enforcement powers and procedures and uniform standards for license revocation, suspension and other disciplinary proceedings by such boards. This act is deemed remedial, and the provisions hereof should be afforded a liberal construction.

45:1-15. Application of act

The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Physical Therapy Examiners, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational Therapy Advisory Council, the Electrologists Advisory Committee, the Alcohol and Drug Counselor Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Massage, Bodywork and Somatic Therapy Examining Committee, and the Audiology and Speech-Language Pathology Advisory Committee.

45:1-15.1. Adoption of rules and regulations

Consistent with their enabling acts, P.L. 1978, c. 73 (C. 45:1-14 et seq.) and the “Administrative Procedure

Act,” P.L. 1968, c. 410 (C. 52:14B-1 et seq.), the boards and others set forth in section 2 of P.L. 1978, c. 73 (C. 45:1-15) are authorized to adopt rules and regulations to serve the public health, safety and welfare.

45:1-16. Definitions

As used within this act the following words or terms shall have the indicated definition unless the context clearly indicates otherwise.

“Board” means any professional or occupational licensing board designated in section 2 of this act.

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Person” means any natural person or his legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestuis que trust thereof.

45:1-17. Powers of Attorney General to implement act and administer law enforcement activities of boards

In implementing the provisions of this act and administering the law enforcement activities of those professional and occupational boards located within the Division of Consumer Affairs, the Attorney General may:

- a. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate rules and regulations consistent with the provisions of this act and the Administrative Procedure Act, P.L.1968, c. 410 (C. 52:14B-1 et seq.) governing the procedure for administrative hearings before all boards within the Division of Consumer Affairs. Such rules and regulations shall govern administrative complaints, answers thereto, issuance of subpoenas, appointment of hearing examiners, adjournments, submission of proposed findings of fact and conclusions of law, the filing of briefs, and such other procedural aspects of administrative hearings before the boards as the Attorney General may deem necessary; provided, however, nothing herein authorized shall be construed to require the Attorney General to promulgate rules regarding prehearing investigative procedures.
- b. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate substantive rules and regulations consistent with the provisions of any statute governing the activities of any licensing agency, board or committee located within the Division of Consumer Affairs, which shall be limited to disciplinary matters and arbitrary restrictions on initial licensure. In addition to promulgating such rules and regulations, the Attorney General may direct that any proposed or existing regulation be amended, abandoned or repealed. Prior to the final adoption of any regulation affecting the activities of any professional or occupational licensing agency, board or committee located within the division and prior to the issuance of any directive to amend, abandon or repeal any regulation, the Attorney General or his designee shall first consult with the agency, board or committee whose activities are affected regarding the proposed action.
- c. After a full consideration of all relevant facts and the applicable law, may direct the initiation of any appropriate enforcement action by a professional or occupational licensing board or set aside, modify or amend, as may be necessary, any action or decision of a licensing agency, board or committee located within the Division of Consumer Affairs; provided, however, no such action shall be directed by the

Attorney General in reviewing the action or decision of an agency, board or committee unless such action or decision is contrary to applicable law.

45:1-18. Investigative powers of boards, director or attorney general

Whenever it shall appear to any board, the director or the Attorney General that a person has engaged in, or is engaging in any act or practice declared unlawful by a statute or regulation administered by such board, or when the board, the director or the Attorney General shall deem it to be in the public interest to inquire whether any such violation may exist, the board or the director through the Attorney General, or the Attorney General acting independently, may exercise any of the following investigative powers:

- a. Require any person to file on such form as may be prescribed, a statement or report in writing under oath, or otherwise, as to the facts and circumstances concerning the rendition of any service or conduct of any sale incidental to the discharge of any act or practice subject to an act or regulation administered by the board;
- b. Examine under oath any person in connection with any act or practice subject to an act or regulation administered by the board;
- c. Inspect any premises from which a practice or activity subject to an act or regulation administered by the board is conducted;
- d. Examine any goods, ware or item used in the rendition of a practice or activity subject to an act or regulation administered by the board;
- e. Examine any record, book, document, account or paper prepared or maintained by or for any professional or occupational licensee in the regular course of practicing such profession or engaging in such occupation or any individual engaging in practices subject to an act or regulation administered by the board. Nothing in this subsection shall require the notification or consent of the person to whom the record, book, account or paper pertains, unless otherwise required by law;
- f. For the purpose of preserving evidence of an unlawful act or practice, pursuant to an order of the Superior Court, impound any record, book, document, account, paper, goods, ware, or item used, prepared or maintained by or for any board licensee in the regular course of practicing such profession or engaging in such occupation or any individual engaging in a practice or activity subject to an act or regulation administered by the board. In such cases as may be necessary, the Superior Court may, on application of the Attorney General, issue an order sealing items or material subject to this subsection; and
- g. Require any board licensee, permit holder or registered or certified person to submit to an assessment of skills to determine whether the board licensee, permit holder or registered or certified person can continue to practice with reasonable skill and safety.

In order to accomplish the objectives of this act or any act or regulation administered by a board, the Attorney General may hold such investigative hearings as may be necessary and the board, director or Attorney General may issue subpoenas to compel the attendance of any person or the production of books, records or papers at any such hearing or inquiry.

45:1-19. Failure or refusal to file statement or report, refuse access to premises or failure to obey subpoena; penalty

If any person shall fail or refuse to file any statement or report or refuse access to premises from which a licensed profession or occupation is conducted in any lawfully conducted investigative matter or fail to obey a subpoena issued pursuant to this act, the Attorney General may apply to the Superior Court and obtain an order:

- a. Adjudging such person in contempt of court; or

- b. Granting such other relief as may be required; or
- c. Suspending the license of any such person unless and until compliance with the subpoena or investigative demand is effected.

45:1-20. Compelling testimony or production of book, paper or document; immunity from prosecution

If any person shall refuse to testify or produce any book, paper, or other document in any proceeding under this act for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, convict him of a crime, or subject him to a penalty or forfeiture, and shall, notwithstanding, be directed to testify or to produce such book, paper, or document by the Attorney General, he shall comply with such direction.

A person who is entitled by law to, and does assert such privilege, and who complies with such direction of the Attorney General shall not thereafter be prosecuted or subjected to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury or false swearing committed by him in giving such testimony or from any civil or administrative action arising from such testimony.

45:1-21. Refusal to license or renew, grounds

A board may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license:

- a. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;
- b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
- c. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;
- d. Has engaged in repeated acts of negligence, malpractice or incompetence;
- e. Has engaged in professional or occupational misconduct as may be determined by the board;
- f. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. For the purpose of this subsection a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
- g. Has had his authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;
- h. Has violated or failed to comply with the provisions of any act or regulation administered by the board;
- i. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;
- j. Has repeatedly failed to submit completed applications, or parts of, or documentation submitted in conjunction with, such applications, required to be filed with the Department of Environmental Protection;
- k. Has violated any provision of P.L. 1983, c. 320 (C. 17:33A-1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L. 1983, c. 320 (C. 17:33A-1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;
- l. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term "presently" means

- at this time or any time within the previous 365 days;
- m. Has prescribed or dispensed controlled dangerous substances indiscriminately or without good cause, or where the applicant or holder knew or should have known that the substances were to be used for unauthorized consumption or distribution;
 - n. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the board, or aided and abetted an unlicensed person or entity in performing such an act;
 - o. Advertised fraudulently in any manner.

The division is authorized, for purposes of facilitating determinations concerning licensure eligibility, to require the fingerprinting of each applicant in accordance with applicable State and federal laws, rules and regulations. Each applicant shall submit the applicant's name, address, and written consent to the director for a criminal history record background check to be performed. The division is authorized to receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation. Upon receipt of such notification, the division shall forward the information to the appropriate board which shall make a determination regarding the issuance of licensure. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check, unless otherwise provided for by an individual enabling act. The Division of State Police shall promptly notify the division in the event an applicant or licensee, who was the subject of a criminal history record background check pursuant to this section, is convicted of a crime or offense in this State after the date the background check was performed.

For purposes of this act:

“Completed application” means the submission of all of the information designated on the checklist, adopted pursuant to section 1 of P.L. 1991, c. 421 (C. 13:1D-101), for the class or category of permit for which application is made.

“Permit” has the same meaning as defined in section 1 of P.L. 1991, c. 421 (C. 13:1D-101).

45:1-21.1. Information on DEP application compliance, seminar attendance

- a. A board obtaining information from the Department of Environmental Protection pursuant to section 1 of P.L.1991, c.418 (C.13:1D-110) on the compliance of a member of a regulated profession with the requirements for completed applications of the department, shall annually develop a detailed written summary of the information gathered by the department pursuant to P.L.1991, c.418 (C.13:1D-110) regarding compliance with the department's requirements for completed applications and attendance records for continuing education seminars required to be filed with the department pursuant to section 2 of P.L.1991, c.419 (C.13:1D-117).
- b. Any reasonable costs incurred in preparation of the report required pursuant to this section may be included in the charges authorized pursuant to P.L.1974, c.46 (C.45:1-3.2).
- c. Information required to be compiled by a board pursuant to this section, shall be deemed to be public records subject to the requirements of P.L.1963, c.73 (C.47:1A-1 et seq.).

45:1-21.2. Suspension of licenses, registrations, and certifications for failure to repay student loans

The director or a board shall suspend, as appropriate, after a hearing, the license, registration or certification of any person who has been certified by a lender or guarantor and reported to the director or the board, as the case may be, for nonpayment or default of a State or federal direct or guaranteed educational loan. The license, registration or certification shall not be reissued until the person provides the director or board with a written release issued by the lender or guarantor stating that the person has cured the default or is making payments on the loan in accordance with a repayment agreement approved by the lender or guarantor. If the person

has continued to meet all other requirements for licensure, registration or certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director or the board may impose.

45:1-21.3. Violation of the responsibility to make 911 call, forfeiture of license, authorization to practice

A health care professional licensed or otherwise authorized to practice as a health care professional pursuant to Title 45 of the Revised Statutes who violates the provisions of section 3 of P.L. 2003, c. 191 (C. 30:6D-5.3) shall, in addition to being liable to a civil penalty pursuant to section 4 of P.L. 2003, c. 191 (C. 30:6D-5.4), be subject to revocation of that individual's professional license or other authorization to practice as a health care professional by the appropriate licensing board in the Division of Consumer Affairs in the Department of Law and Public Safety, after appropriate notice and opportunity for a hearing.

45:1-22. Additional and alternative penalties

In addition or as an alternative, as the case may be, to revoking, suspending or refusing to renew any license, registration or certificate issued by it, a board may, after affording an opportunity to be heard:

- a. Issue a letter of warning, reprimand, or censure with regard to any act, conduct or practice which in the judgment of the board upon consideration of all relevant facts and circumstances does not warrant the initiation of formal action;
- b. Assess civil penalties in accordance with this act;
- c. Order that any person violating any provision of an act or regulation administered by such board to cease and desist from future violations thereof or to take such affirmative corrective action as may be necessary with regard to any act or practice found unlawful by the board;
- d. Order any person found to have violated any provision of an act or regulation administered by such board to restore to any person aggrieved by an unlawful act or practice, any moneys or property, real or personal, acquired by means of such act or practice; provided, however, no board shall order restoration in a dollar amount greater than those moneys received by a licensee or his agent or any other person violating the act or regulation administered by the board;
- e. Order any person, as a condition for continued, reinstated or renewed licensure, to secure medical or such other professional treatment as may be necessary to properly discharge licensee functions;
- f. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to any medical or diagnostic testing and monitoring or psychological evaluation which may be required to evaluate whether continued practice may jeopardize the safety and welfare of the public;
- g. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety, and to take and successfully complete educational training determined by the board to be necessary;
- h. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety, and to submit to any supervision, monitoring or limitation on practice determined by the board to be necessary.

A board may, upon a duly verified application of the Attorney General that either provides proof of a conviction of a court of competent jurisdiction for a crime or offense involving moral turpitude or relating adversely to the regulated profession or occupation, or alleges an act or practice violating any provision of an act or regulation administered by such board, enter a temporary order suspending or limiting any license issued by the board pending plenary hearing on an administrative complaint; provided, however, no such temporary order shall be entered unless the application made to the board palpably demonstrates a clear and imminent danger to the public health, safety and welfare and notice of such application is given to the licensee affected by such order. If, upon review of the Attorney General's application, the board determines

that, although no palpable demonstration of a clear and imminent danger has been made, the licensee's continued unrestricted practice pending plenary hearing may pose a risk to the public health, safety and welfare, the board may order the licensee to submit to medical or diagnostic testing and monitoring, or psychological evaluation, or an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety.

In any administrative proceeding commenced on a complaint alleging a violation of an act or regulation administered by a board, such board may issue subpoenas to compel the attendance of witnesses or the production of books, records, or documents at the hearing on the complaint.

45:1-23. Summary proceeding in Superior Court; injunction; orders necessary to prevent unlawful practice or remedy past unlawful activity

Whenever it shall appear to a board, the director or the Attorney General that a violation of any act, including the unlicensed practice of the regulated profession or occupation, or regulation administered by such board has occurred, is occurring, or will occur, the Attorney General, in addition to any other proceeding authorized by law, may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting such act or practice. In any such proceeding the court may assess a civil penalty in accordance with the provisions of this act, order restoration to any person in interest of any moneys or property, real or personal, acquired by means of an unlawful act or practice and may enter such orders as may be necessary to prevent the performance of an unlawful practice in the future and to fully remedy any past unlawful activity. In any action brought pursuant to this section, the court shall not suspend or revoke any license issued by a board.

45:1-24. Failure to pay penalties; enforcement

Upon the failure of any person to comply within 10 days after service of any order of a board directing payment of penalties or restoration of moneys or property, the Attorney General or the secretary of such board may issue a certificate to the Clerk of the Superior Court that such person is indebted to the State for the payment of such penalty and the moneys or property ordered restored. A copy of such certificate shall be served upon the person against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty imposed, and amount of moneys ordered restored, a listing of property ordered restored, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court, and the Attorney General shall have all rights and remedies of a judgment creditor in addition to exercising any other available remedies. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the board's order.

An action to enforce the provisions of any order entered by a board or to collect any penalty levied thereby may be brought in any municipal court or the Superior Court in summary manner pursuant to the Penalty Enforcement Act, (N.J.S. 2A:58-1 et seq.) and the rules of court governing the collection of civil penalties. Process in such action shall be by summons or warrant, and in the event that the defendant fails to answer such action, the court shall issue a warrant for the defendant's arrest for the purpose of bringing such person before the court to satisfy any order entered.

45:1-25. Violations and penalties

- a. Any person who engages in any conduct in violation of any provision of an act or regulation administered by a board shall, in addition to any other sanctions provided herein, be liable to a civil penalty of not more than \$ 10,000 for the first violation and not more than \$ 20,000 for the second and each subsequent

violation. For the purpose of construing this section, each act in violation of any provision of an act or regulation administered by a board shall constitute a separate violation and shall be deemed a second or subsequent violation under the following circumstances:

- (1) an administrative or court order has been entered in a prior, separate and independent proceeding;
 - (2) the person is found within a single proceeding to have committed more than one violation of any provision of an act or regulation administered by a board; or
 - (3) the person is found within a single proceeding to have committed separate violations of any provision of more than one act or regulation administered by a board.
- b. In lieu of an administrative proceeding or an action in the Superior Court, the Attorney General may bring an action in the name of any board for the collection or enforcement of civil penalties for the violation of any provision of an act or regulation administered by such board. Such action may be brought in summary manner pursuant to the “Penalty Enforcement Law of 1999,” P.L. 1999, c. 274 (C. 2A:58-10 et seq.) and the rules of court governing actions for the collection of civil penalties in the municipal court where the offense occurred. Process in such action may be by summons or warrant and in the event that the defendant in such action fails to answer such action, the court shall, upon finding an unlawful act or practice to have been committed by the defendant, issue a warrant for the defendant’s arrest in order to bring such person before the court to satisfy the civil penalties imposed. In any action commenced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice.
- c. Any action alleging the unlicensed practice of a profession or occupation shall be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court.
- d. In any action brought pursuant to this act, a board or the court may order the payment of costs for the use of the State, including, but not limited to, costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs.

45:1-26. Repeal of inconsistent acts and parts of acts

All acts and parts of acts inconsistent with this act are hereby superseded and repealed.

45:1-27. Severability

If any provision of this law or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the law which can be given effect without the invalid provision or application, and to this end the provisions of this law are severable.

45:1-28 Definitions relative to criminal history background checks for health care professionals.

As used in this act:

“Applicant” means an applicant for the licensure or other authorization to engage in a health care profession.

“Board” means a professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety.

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Division” means the Division of Consumer Affairs in the Department of Law and Public Safety.

“Health care professional” means a health care professional who is licensed or otherwise authorized, pursuant to Title 45 or Title 52 of the Revised Statutes, to practice a health care profession that is regulated by one of the following boards or by the Director of the Division of Consumer Affairs: the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Dentistry, the New Jersey State Board of Optometrists, the New Jersey State Board of Pharmacy, the State Board of Chiropractic Examiners, the Acupuncture Examining Board, the State Board of Physical Therapy, the State Board of Respiratory Care, the Orthotics and Prosthetics Board of Examiners, the State Board of Psychological Examiners, the State Board of Social Work Examiners, the State Board of Veterinary Medical Examiners, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology and Speech-Language Pathology Advisory Committee, the State Board of Marriage and Family Therapy Examiners, the Occupational Therapy Advisory Council, the Certified Psychoanalysts Advisory Committee or the State Board of Polysomnography.

Health care professional shall not include a nurse aide or personal care assistant who is required to undergo a criminal history record background check pursuant to section 2 of P.L.1997, c.100 (C.26:2H-83) or a homemaker-home health aide who is required to undergo a criminal history record background check pursuant to section 7 of P.L.1997, c.100 (C.45:11-24.3).

“Licensee” means an individual who has been issued a license or other authorization to practice a health care profession.

45:1-29 Criminal history record background check required for licensure of health care professional.

- a. A professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety or the director who regulates the practice of a health care professional, as applicable, shall not issue an initial license or other authorization to practice a health care profession that is regulated by that board or the director to any applicant therefor unless the board or director, as applicable, first determines, consistent with section 8 of P.L.1978, c.73 (C.45:1-21), that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which may disqualify the applicant from being licensed or otherwise authorized to practice as a health care professional.
- b. A board or the director, as applicable, shall not renew or, if renewed, shall revoke a license or other authorization to practice a health care profession that is regulated by that board or the director of any applicant therefor unless the board or director determines, consistent with section 8 of P.L.1978, c.73 (C.45:1-21), that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which may provide grounds for the refusal to renew the license or other authorization to practice as a health care professional.

The director shall establish, by regulation, a schedule of dates by which the requirements of this subsection shall be implemented, so that all licensees will have been required to submit to a criminal history record background check beginning no later than four years after the effective date of P.L.2005, c.83 (C.45:1-33 et al.).

The director may, in an emergent circumstance, temporarily waive the requirement to undergo a criminal history record background check as a condition of renewal of a license or other authorization to practice a health care profession.

45:1-30 Submission of information by applicant or licensee.

- a. An applicant or licensee who is required to undergo a criminal history record background check pursuant to section 2 of P.L.2002, c.104 (C.45:1-29) shall submit to the director that individual's name, address and fingerprints taken on standard fingerprint cards, or through any equivalent means, by a State or municipal law enforcement agency or by a private entity under contract with the State. The director is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required pursuant to this act.
- b. Upon receipt of the criminal history record information for an applicant or licensee from the Federal Bureau of Investigation or the Division of State Police, the director shall immediately notify the board, as applicable.
- c. If an applicant refuses to consent to, or cooperate in, the securing of a criminal history record background check, the board or director, as applicable, shall not issue a license or other authorization to practice a health care profession to the applicant and shall notify the applicant of that denial.
- d. If a licensee refuses to consent to, or cooperate in, the securing of a criminal history record background check as required during the licensure or other authorization renewal process, the board or director, as applicable, shall refuse to renew the license or other authorization of the licensee, without a hearing, and shall notify the licensee of that denial.
- e. A licensee who:
 - (1) has permitted a license or other authorization to lapse or whose license or other authorization has been suspended, revoked or otherwise has had licensure or other authorization privileges restricted, and
 - (2) has not already submitted to a criminal history record background check, shall be required to submit fingerprints as part of the licensure or other authorization reinstatement process. If a reinstatement applicant refuses to consent to, or cooperate in, the securing of a criminal history record background check as required during the reinstatement process, the board or director, as applicable, shall automatically deny reinstatement of the license or other authorization, without a hearing, and shall notify the licensee of that denial.

45:1-31 Applicant or licensee to assume cost.

An applicant or licensee shall be required to assume the cost of the criminal history record background check conducted pursuant to sections 1 through 3 of P.L.2002, c.104 (C.45:1-28 through 45:1-30) and section 14 of P.L.1997, c.100 (C.53:1-20.9a), in accordance with procedures determined by regulation of the director.

45:1-32. Rules, regulations

The Director of the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

TITLE 45. PROFESSIONS AND OCCUPATIONS

SUBTITLE 1. PROFESSIONS AND OCCUPATIONS SUBJECT TO STATE BOARDS OF REGISTRATION AND EXAMINATION

CHAPTER 3B. Audiologists And Speech-Language Pathologists

45:3B-1. Legislative findings and declarations

The Legislature finds and declares that the practice of audiology and speech-language pathology needs to be regulated for the protection of the health, safety and welfare of the citizens of this State. The Legislature further finds and declares that peer regulation and the creation of a new board of examiners to carry out the provisions of this act are not in the public interest and it has devised a regulatory mechanism which is consonant with the licensing policies of this State.

45:3B-2. Definitions

As used in this act:

- a. "Audiologist" means any individual who practices audiology and who represents himself to the public by title or by description of services, under any title incorporating such terms as "audiology," "audiologist," "audiological," "audiologic," "hearing clinic," "hearing clinician," "hearing therapist," or any similar title or description of services, provided that the individual has met the eligibility requirements contained in section 8 and has been duly licensed under this act.
- b. "Committee" means the Audiology and Speech-Language Pathology Advisory Committee.
- c. "Person" means any individual, corporation, partnership, trust, association or other organization, except that only individuals may be licensed under this act.
- d. "Practice of audiology" means the nonmedical and nonsurgical application of principles, methods, and procedures of measurement, testing, evaluation, consultation, counseling, instruction, and habilitation or rehabilitation related to hearing, its disorders and related communication impairments for the purpose of nonmedical diagnosis, prevention, identification, amelioration or modification of these disorders and conditions in individuals or groups of individuals with speech, language or hearing handicaps, or to individuals or groups of individuals for whom these handicapping conditions must be ruled out.
- e. "Practice of speech-language pathology" means the nonmedical and nonsurgical application of principles, methods and procedures of measurement, prediction, nonmedical diagnosis, testing, counseling, consultation, habilitation and rehabilitation and instruction related to the development and disorders of speech, voice, and language for the purpose of preventing, ameliorating and modifying these disorders and conditions in individuals or groups of individuals with speech, language, or hearing handicaps, or to individuals or groups of individuals for whom these handicapping conditions must be ruled out.
- f. "Speech-language pathologist" means an individual who practices speech-language pathology and who represents himself to the public by title or by description of services under any title incorporating such terms as "speech-language pathology," "speech-language pathologist," "speech pathology," "speech pathologist," "speech correction," "speech correctionist," "speech therapy," "speech therapist," "speech clinic," "speech clinician," "logopedist," "communicologist," "language therapist," "communication disorders specialist," "communication therapist," or any similar title or description of services, provided that the individual has met the eligibility requirements contained in section 8 and has been duly licensed under this act.

45:3B-3. Audiology and speech-language pathology advisory committee; creation

There is created in the Division of Consumer Affairs of the Department of Law and Public Safety an Audiology and Speech-Language Pathology Advisory Committee which shall serve as an advisory body to the Director of the Division of Consumer Affairs with respect to the licensure of audiologists and speech-language pathologists.

45:3B-4. Members; appointment; qualifications

The committee shall consist of nine residents of this State who shall be appointed by the Governor. Four members shall be audiologists or speech-language pathologists who shall fulfill the licensure requirements of this act, but not more than three of these members may represent the area of audiology or speech-language pathology. Two members shall be persons who are licensed to practice medicine and surgery by this State, one who is a diplomate of the American Board of Otolaryngology and one who is a diplomate of the American Osteopathic Board of Otolaryngology. Two members shall be public members and one member shall be a State representative.

45:3B-5. Terms of office; vacancies

Each member of the committee, except the members first appointed, shall serve for a term of 5 years and shall hold office until the appointment and qualification of his successor. The initial appointments to the committee shall be two members for a term of two years, two members for terms of three years, two members for terms of four years and three members for terms of five years.

The audiologist and speech-language pathologist members of the first committee shall be deemed to be and shall become licensed practicing audiologists and speech-language pathologists immediately upon their appointment and qualification as members of the committee, provided that they have met the requirements for licensure under this act.

Vacancies shall be filled for the unexpired terms only. No member may be appointed for more than two consecutive terms.

45:3B-6. Oath; officers; meetings

The members of the committee, before entering the discharge of their duties, and within 30 days after their appointment, shall take and subscribe to an oath before an officer authorized to administer oaths in this State for the faithful performance of their duties and file the oath with the Secretary of State. The members of the committee shall annually elect from their number a chairman and a secretary-treasurer each of whom shall hold office for 1 year and until his successor shall have been elected and qualified.

Regular meetings of the committee shall be held at such times and places as it prescribes and special meetings may be held upon the call of the chairman or the director. At least one regular meeting shall be held each year.

45:3B-7. Powers and duties

The committee may have the following powers and duties as delegated by the director:

- a. To determine and secure publication of education and continuing education requirements for licensing as audiologists and speech-language pathologists;
- b. To evaluate the qualifications of all applicants for licensing as audiologists and speech-language pathologists, supervise the examination of applicants and make recommendations to the director concerning the licensure of qualified individuals;
- c. To establish or recommend to the director standards of professional conduct for licensed audiologists and speech-language pathologists;
- d. To do any and all other things which may be appropriate to achieve the objectives contemplated by this act, or which may be useful in executing any of the duties, powers, or functions of the committee.

45:3B-8. License; eligibility and qualifications

To be eligible for a license to practice audiology or speech-language pathology, an applicant shall:

- a. Possess at least a master's degree or its equivalent in the area of audiology or speech-language pathology from an accredited college or university acceptable to the Department of Higher Education;
- b. Submit to the director transcripts from one or more accredited educational institutions evidencing the completion of specific requirements which shall be determined and published by the director in consultation with the committee and the Department of Higher Education. These requirements shall not be substantially inconsistent with current nationally recognized professional standards and shall include both academic courses and clinical practice;
- c. Submit to the director evidence of the completion of a clinical internship in the professional area for which the license is sought. The clinical internship shall not be substantially inconsistent with currently recognized national professional standards.

Clinical internship shall be under the direct supervision of a person licensed to practice speech-language pathology or audiology, as appropriate, by this State or by another state which has standards substantially equivalent to those of this State; or a person in a state without licensure laws, provided that the supervisor shows evidence of credentials equivalent to the requirements for licensure under this act; or a person in this State practicing in an exempt setting, provided that the supervisor shows evidence of credentials equivalent to the requirements for licensure under this act;

- d. Pass a written examination approved by the director in consultation with the committee. An examination shall be given at least once each year.

45:3B-9. Issuance; duration; renewal

The director, in consultation with the committee, shall issue a license to practice audiology or speech-language pathology to all applicants who meet the established qualifications. Licenses shall be effective for a period not to exceed 2 years and may be renewed biennially.

Licensure shall be granted independently in audiology or speech-language pathology. A person may be licensed in both areas if he is qualified.

45:3B-10. Licensure

In lieu of the examination given to other applicants for licensure the director, in consultation with the committee, may issue a license to an individual who presents bona fide proof to the director that he was actively engaged in the practice of audiology or speech-language pathology, or both, in this State for three of the last five years immediately preceding the enactment of this act, and has a master's degree or its equivalent in speech-language pathology or audiology, and meets the currently recognized national professional standards in speech-language pathology or audiology. The application shall be made to the director within one year of the enactment of this act. Prior to the licensure of an individual under this section, the director shall require that the applicant demonstrate satisfactory knowledge of current developments and procedures in his area of specialization.

45:3B-11. Issuance without examination to persons actively engaged in practice prior to Jan. 1, 1970

In lieu of the examination given to all other applicants for licensure the director, in consultation with the committee, may issue a license to an individual who presents bona fide proof to the director that he was actively engaged in the practice of audiology or speech-language pathology, or both, prior to January 1, 1970, and who has practiced in this State for 3 of the 5 years immediately preceding the enactment of this act and meets the currently recognized national professional standards in speech-language pathology or audiology. The application shall be made to the director within one year of the enactment of this act. Prior to the licensure of an individual under this section, the director shall require that the applicant demonstrate satisfactory knowledge of current developments and procedures in his area of specialization.

45:3B-12. Provisional licenses

The director, in consultation with the committee, may issue a provisional license to any person who has received a bachelor's degree from an accredited college or university acceptable to the Department of Higher Education and who presents bona fide proof that he was actively engaged in the practice of speech-language pathology or audiology or both, in this State for 3 of the last 5 years immediately preceding the enactment of this act, and who is working toward fulfilling the requirements for licensure as an audiologist or speech-language pathologist. Provisional licensees shall work only under the supervision of a licensed audiologist or speech-language pathologist who shall be responsible for the actions of the provisional licensee. Provisional licenses shall be in effect for a period of 2 years and may be renewed once. No provisional licenses shall be issued after 5 years from the effective date of this act. The application shall be made to the director within 1 year of the enactment of this act.

45:3B-13. Reciprocity

The director, in consultation with the committee, shall accept in lieu of a written examination proof that an applicant for licensing holds a current license in a state which has standards substantially equivalent to those of this State.

45:3B-14. Temporary licenses

- a. The director, in consultation with the committee, may issue a temporary license to any person who has recently become a resident of this State, who has applied for licensing as an audiologist or speech-language pathologist, or both, as the case may be, and who has been licensed by the state of his former

residence. The temporary license shall be effective for a period not to exceed one year, and shall not be renewed.

- b. The director, in consultation with the committee, shall issue a temporary license to any person who has applied for licensure as an audiologist or speech-language pathologist, or both, as the case may be; who has satisfactorily met the licensing requirements of subsections a. and b. of section 8 of P.L.1983, c. 420 (C. 45:3B-8); and who is participating in a clinical internship required for licensure pursuant to subsection c. of section 8 of P.L.1983, c. 420 (C. 45:3B-8). The temporary license shall be effective only during the clinical internship period not to exceed 18 months, and shall not be renewed.

45:3B-15. Prohibition of representation as practitioner by unlicensed person

No person shall practice or hold himself out as being able to practice audiology or speech-language pathology in this State unless he is licensed in accordance with the provisions of this act.

45:3B-16. Practice without licensure if licensed practitioners employed

Nothing in this act shall prohibit any person from engaging in the practice of audiology or speech-language pathology without licensure if he employs licensed individuals in the direct practice of audiology or of speech-language pathology. Such a person shall file a statement with the director, on a form approved by the director that he submits himself to the rules and regulations of the director and the provisions of this act which are applicable to him.

45:3B-17. Inapplicability of act to certain activities and services

The provisions of this act do not apply to:

- a. The activities and services of any person who is licensed to practice medicine and surgery by this State, or a person under the direct supervision and control of a physician, engaged in his practice, providing such a person is not referred to as an audiologist or speech-language pathologist;
- b. The activities, services, and use of an official title on the part of a person in the employ of a federal agency, as such services are part of the duties of his office or position with that agency; or any person certified by the State Board of Examiners as a speech correctionist;
- c. The activities and services of a student, fellow, trainee in audiology or speech-language pathology pursuing a course of study of an accredited university or college, or working in a recognized training center, if these activities and services constitute a part of his course of study under a supervisor licensed in audiology or speech-language pathology;
- d. The activities and services within the scope of practice of any person licensed by this State as a hearing aid dispenser pursuant to P.L.1973, c. 19 (C. 45:9A-1 et seq.); or any person who is registered, certified or licensed in this State under any other law to engage in the profession or occupation for which he is registered, certified or licensed;
- e. No person shall be exempt under subsection b. of this section for that portion of his time spent as a private practitioner of audiology or speech-language pathology. If he does any work as an audiologist or speech-language pathologist for which a fee may be paid by a recipient of the service or as part of a private practice apart from his position with the government agency, he shall hold a valid and current license.

45:3B-18. Continuing education requirements

All applicants for license renewal shall submit to the director evidence of satisfactory completion of such continuing education requirements as are determined and published by the director.

The director shall notify each licensed individual of any failure to comply with this requirement, and shall further notify him that upon continued failure to comply within 3 months of the date of the notice, the director in consultation with the committee, may, in his discretion, take action, pursuant to section 20 of this act, to suspend or revoke the license.

45:3B-19. Names and office addresses; notice to director; lists

Every licensed audiologist and speech-language pathologist commencing to practice in this State shall notify the director of his office address. Every licensed audiologist and speech-language pathologist shall promptly notify the director of any change in his office address. The director shall annually publish complete lists of the names and office addresses of all audiologists and speech-language pathologists licensed and practicing in this State. The list shall be arranged alphabetically by name and also by the names of the municipalities in which the various offices are situated.

45:3B-20. Fees; limitations; disposition of revenues

- a. All applicants for licenses, temporary licenses or renewals under this act shall pay a fee for the issuance or renewal which shall be determined by the director in consultation with the committee. The revenue generated from these fees shall not exceed the operating costs of the director and the committee under this act.
- b. All fees and any fines imposed by the director shall be forwarded to the State Treasurer and shall be deposited in the General Fund. All expenditures deemed necessary to carry out the provisions of this act shall be paid by the State Treasurer from the funds collected and forwarded by the director subject to, and within the limits of, appropriations made pursuant to law, but expenditures shall not exceed revenues from the operation of this act during any fiscal year.

45:3B-21. Repealed by L. 1999, c. 403, 12, effective January 18, 2000.

[Repealed]

45:3B-22. Restoration after revocation

A license may be restored after 1 year from the date of its revocation by the director, in consultation with the committee.

45:3B-23. Violations; penalties; enforcement

Any person who violates the provisions of this act shall be subject to a penalty of \$ 200.00 for the first offense and \$ 500.00 for each subsequent offense, to be sued for and recovered by and in the name of the director pursuant to the provisions of the "penalty enforcement law" (N.J.S. 2A:58-1 et seq.)

45:3B-24. Regulations

The director shall adopt, amend or repeal such regulations, consistent with the policy and objectives of this act, as he may deem desirable or necessary for the public interest, provided that the regulations shall be adopted, amended and repealed in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.).

**NEW JERSEY ADMINISTRATIVE CODE
TITLE 13. LAW AND PUBLIC SAFETY
CHAPTER 44C. AUDIOLOGY AND SPEECH-LANGUAGE
PATHOLOGY ADVISORY COMMITTEE**

SUBCHAPTER 1. GENERAL REQUIREMENTS

13:44C-1.1 Change of address or telephone; service of process

- (a) Every licensed audiologist and speech-language pathologist shall notify the Audiology and Speech-Language Pathology Advisory Committee (Committee) in writing within 60 days of any change in address of record or telephone number.
- (b) Service of an administrative complaint or other Committee-initiated action at a licensee's address which is currently on file with the Committee shall be deemed adequate notice for the purposes of N.J.A.C. 1:1-7.1 and the commencement of any disciplinary proceedings.

SUBCHAPTER 2. ADMINISTRATION; FEES

13:44C-2.1 Election of officers

The membership of the New Jersey Audiology and Speech-Language-Pathology Advisory Committee shall once each year elect a chairman, and a secretary-treasurer. The chairman shall have the responsibility to conduct all meetings unless, in his or her discretion, a delegation of that responsibility is made. In the absence of the chairman or an express delegation of responsibility, the secretary-treasurer shall assume all duties of the chairman.

13:44C-2.2 Fees and charges

- (a) The following fees shall be charged by the Advisory Committee:

- 1. Application fee \$ 75.00
- 2. Initial license fee
 - i. If paid during the first year of a biennial license renewal period \$ 170.00
 - ii. If paid during the second year of a biennial license renewal period \$ 85.00
- 3. License renewal fee, biennial \$ 170.00
- 4. Temporary license (one year)..... \$ 50.00
- 5. Late renewal fee (up to 30 days) \$ 50.00
- 6. Reinstatement fee (after 30 days) \$ 50.00
- 7. Certification of licensure to other states \$ 50.00
- 8. Duplicate license fee \$ 10.00
- 9. Duplicate wall certificate..... \$ 25.00
- 10. Inactive license fee(to be established by the Director by rule)

13:44C-3.1 Application forms

- (a) Applications for licensure may be obtained at the office of the Advisory Committee, 124 Halsey Street, Newark, New Jersey 07101. The Committee's mailing address is Audiology and Speech-Language Pathology Advisory Committee, Post Office Box 45002, Newark, New Jersey 07101.
- (b) All applications for licensure shall be accompanied by the fee as set forth in N.J.A.C. 13:44C-2.2.

13:44C-3.2 Requirements for licensure

- (a) An applicant for licensure shall submit to the Committee proof that the applicant has:
1. Graduated from:
 - i. A master's degree program in the area of audiology, speech-language pathology, or both, at an accredited college or university recognized by the New Jersey Commission on Higher Education which meets the educational requirements of N.J.A.C. 13:44C-3.3 or 3.4; or
 - ii. A bachelor's degree from an accredited college or university recognized by the New Jersey Commission on Higher Education and 42 post-baccalaureate semester hours acceptable toward a master's degree. Of these 42 hours, at least 30 shall be in the area of speech-language pathology or audiology and at least 21 shall be obtained from a single college or university. No more than six hours may be in courses that provide credit for clinical practice. The bachelor's degree and post-baccalaureate hours shall meet the educational requirements of N.J.A.C. 13:44C-3.3 or 3.4;
 2. Completed a clinical internship, in accordance with the provisions of N.J.A.C. 13:44C-3.6, in either audiology, speech-language pathology, or both, as appropriate; and
 3. Achieved a score of 600 on the National Teachers' Examinations in audiology or speech-language pathology, as appropriate, administered and set by the Educational Testing Service in Princeton, New Jersey.

13:44C-3.3 Additional education requirements: education obtained prior to January 1, 1993

- (a) Applicants who completed the educational requirements of N.J.A.C. 13:44C-3.2(a)1 prior to January 1, 1993, shall complete 60 hours of academic credit dealing with the normal aspects of human communication, development and disorders thereof and clinical techniques for evaluation and management of such disorders. The 60 hours of academic credit shall consist of:
1. At least 12 hours in courses that pertain to normal development and normal functions of speech, language and hearing processes;
 2. At least 30 hours in courses related to communication disorders and information about, and training in, evaluation and management of speech, language and hearing disorders. At least 24 of these 30 semester hours shall be in courses in the area, either audiology or speech-language pathology, for which the license is requested, and at least six hours shall be in the area, either audiology or speech language pathology, in which the applicant will not be licensed. No more than six semester hours may be in courses that provide credit for clinical practice obtained during academic training; and
 3. Eighteen hours in any field, which may include courses that are related to the clinical practice of audiology or speech-language pathology.
- (b) Thirty of the required 60 hours shall be in courses that could be credited toward a graduate degree by the college or university in which they are taken. At least 21 of these 30 hours shall be within the hours required by (a)2 above.
- (c) Applicants who obtained their master's degree prior to January 1, 1993, shall also complete 300 clock hours of supervised clinical experience with individuals who present a variety of communication disorders. This clinical experience shall be obtained within the educational institution in which the applicant is receiving training, or in one of its cooperating programs.

13:44C-3.4 Additional education requirements: education obtained on or after January 1, 1993

- (a) Applicants who completed the educational requirements of N.J.A.C. 13:44C-3.2(a)1 on or after January 1, 1993, shall complete 75 hours of academic credit dealing with the normal aspects of human communication, development and disorders thereof and clinical techniques for evaluation and management of such disorders. The 75 hours of academic credit shall consist of:
1. At least 27 hours in basic science courses as follows:
 - i. Biological/physical science: three hours;
 - ii. College-level mathematics: three hours;
 - iii. Behavioral and/or social sciences: six hours; and
 - iv. Basic human communication processes, including course work in the anatomic and physiological bases of speech, language and hearing; the physical and psychosocial bases of speech, language and hearing; and the linguistic and psycholinguistic aspects of speech, language and hearing: 15 hours;
 2. At least 36 hours in courses that concern the nature, prevention, evaluation and treatment of speech, language and hearing disorders that primarily affect children and hearing disorders that primarily affect adults. At least 30 of the 36 hours shall be in courses for which graduate credit was received, at least 21 of which shall be in the area in which licensure is sought. In addition:
 - i. For a license in speech-language pathology, at least 30 hours of the 36 hours shall be in speech-language pathology, of which at least six shall be in speech disorders and at least six shall be in language disorders. At least six hours shall be in audiology, three of which shall be in hearing disorders and hearing evaluation, and three of which shall be in habilitative/rehabilitative procedures with individuals who have a hearing impairment; and
 - ii. For a license in audiology, at least 30 of the 36 hours shall be in audiology of which at least six hours shall be in hearing disorders and hearing evaluation, and at least six hours shall be in habilitative/ rehabilitative procedures with individuals who have a hearing impairment. At least six hours shall be in speech-language pathology, at least three hours in speech disorders and at least three hours in language disorders; and
 3. Twelve hours in any field, which may include courses that are related to the clinical practice of audiology or speech-language pathology.
- (b) Applicants who obtained their master's degree on or after January 1, 1993, shall also complete 25 clock hours of supervised observation of the evaluation and treatment of children and adults with disorders of speech, language or hearing.
- (c) Applicants who obtained their master's degree on or after January 1, 1993, shall also complete 350 clock hours of supervised clinical experience with individuals who present a variety of communication disorders. This supervised clinical experience shall be obtained within the educational institution in which the applicant is receiving training, or in one of its cooperating programs. No more than 25 of the 350 clock hours may be obtained from participation in situations in which evaluation, treatment and/or recommendations are discussed or formulated, with or without the client present.

13:44C-3.5 Licensure without examination due to licensure in another state

- (a) An applicant who is licensed in another state as an audiologist or speech-language pathologist which has

substantially equivalent requirements for licensure as those in New Jersey may obtain licensure without providing proof of achieving a passing score in the National Teachers' Examinations in audiology or speech-language pathology.

- (b) An applicant for licensure qualified pursuant to (a) above shall submit to the Committee proof that the applicant has:
1. Graduated from:
 - i. A master's degree program in the area of audiology, speech-language pathology, or both, at an accredited college or university recognized by the New Jersey Commission on Higher Education or another state's department of education; or
 - ii. A bachelor's degree from an accredited college or university recognized by the New Jersey Commission on Higher Education and 42 post-baccalaureate semester hours acceptable toward a master's degree. Of these 42 post-baccalaureate hours, at least 30 shall be in the area of speech-language pathology or audiology and at least 21 shall be obtained from a single college or university. No more than six hours may be in courses that provide credit for clinical practice;
 2. Met the educational requirements of N.J.A.C. 13:44C-3.3 or 3.4;
 3. Completed a clinical internship, in accordance with the provisions of N.J.A.C. 13:44C-3.6, in either audiology, speech-language pathology, or both, as appropriate; and
 4. Holds a current license in a state which has standards substantially equivalent to those of New Jersey.

13:44C-3.6 Requirements for clinical internship

- (a) For purposes of this section, "professional employment" means direct clinical work with patients, consultations, recordkeeping, and any other duties relevant to a bona fide program of clinical work.
- (b) For purposes of this section, "full-time employment" means a minimum of 30 clock hours of work per week or part time equivalent employment as follows:
1. Work of 15 to 19 hours per week over 18 months;
 2. Work of 20 to 24 hours per week over 15 months;
 3. Work of 25 to 29 hours per week over 12 months.
- (c) The clinical internship shall comprise no less than nine months of full-time professional employment.
- (d) In the event that part-time employment is used to fulfill a part of the clinical internship, 100 percent of the minimum hours of the weekly part-time work must be spent in direct professional employment, and the internship must be completed within a maximum period of 18 consecutive months.
- (e) Clinical internship shall be under the direct supervision of a person licensed to practice audiology or speech-language pathology, as appropriate, by this State or another state which has standards substantially equivalent to those of this State. If the clinical internship takes place in an exempt setting or in a state without licensure or comparable requirements, the supervisor shall be a person who holds a Certificate of Clinical Competence (C.C.C.) by the American Speech-Language-Hearing Association (ASHA), or its equivalent.
- (f) The supervisor shall be responsible for the professional practices of the temporary licensee.
- (g) The supervisor shall provide a minimum of one hour of on-site direct supervision for each 20 hours of direct, face-to-face evaluation or therapeutic services rendered by the supervisee. Supervision shall take place not less than once a month.

SUBCHAPTER 4. RENEWAL OF LICENSURE; REINSTATEMENT; INACTIVE LICENSURE

13:44C-4.1 Renewal of license

- (a) Licenses shall be renewed biennially on a form provided by the Committee. Each applicant for renewal shall attest that the continuing education requirements of N.J.A.C. 13:44C-6.1 have been completed during the prior biennial period.
- (b) The Committee shall send a notice of renewal to each licensee, at least 60 days prior to the expiration of the license. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.
- (c) The licensee shall submit the renewal application and pay the renewal fee pursuant to N.J.A.C. 13:44C-2.2 prior to the date of expiration of the license. If the licensee does not renew the license prior to its expiration date, the licensee may renew the license no later than 30 days after its expiration date by submitting a renewal application and paying a renewal fee and a late fee pursuant to N.J.A.C. 13:44C-2.2. A licensee who fails to renew the license within 30 days after the expiration date of the license shall be suspended without a hearing.
- (d) A person who continues to practice or hold himself or herself out as a licensee of this State after the license has been suspended shall be deemed to have committed unlicensed practice, even if no notice of suspension has been provided to the person.
- (e) A person seeking reinstatement within five years following the suspension of a license shall submit the following to the Committee:
 - 1. A completed reinstatement application;
 - 2. Payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:44C-2.2;
 - 3. Payment of a reinstatement fee as set forth in N.J.A.C. 13:44C-2.2;
 - 4. Proof that he or she has completed the continuing education credits required pursuant to N.J.A.C. 13:44C-6.1 for each biennial period the license is suspended; and
 - 5. An affidavit of employment listing each job held during the period of suspension which includes the names, addresses, and telephone numbers of each employer.
- (f) A person seeking reinstatement after more than five years following the suspension of a license shall successfully complete the examination required for initial licensure as set forth in N.J.A.C. 13:44C-3.2(a)3 and shall submit:
 - 1. A completed reinstatement application;
 - 2. Payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:44C-2.2;
 - 3. Payment of a reinstatement fee as set forth in N.J.A.C. 13:44C-2.2; and
 - 4. An affidavit of employment listing each job held during the period of suspension which includes the names, addresses, and telephone numbers of each employer.
- (g) Renewal applications for all licensees shall provide the applicant with the option of either active or inactive renewal. Applicants electing to renew as inactive shall not practice or hold themselves out to the public as licensees of this State.
- (h) Upon application to the Committee, the Committee may permit an applicant who has been on inactive status to return to active status provided such applicant completes the continuing education credits that are required for each biennial period that the applicant is on inactive status and the applicant pays the renewal fee as set forth in N.J.A.C. 13:44C-2.2.

SUBCHAPTER 5. APPLICANTS FOR TEMPORARY LICENSURE AS AUDIOLOGIST OR SPEECH-LANGUAGE PATHOLOGIST

13:44C-5.1 Applications

- (a) Applications for temporary licensure may be obtained at the Office of the Advisory Committee, 124 Halsey Street, Newark, New Jersey 07101. The mailing address is Audiology and Speech-Language Pathology Committee, Post Office Box 45002, Newark, New Jersey 07101.
- (b) All applications for temporary licensure shall be accompanied by the fee set forth in N.J.A.C. 13:44C-2.2.

13:44C-5.2 Requirements for temporary licensure

- (a) An applicant for temporary licensure as a recent resident shall submit the following to the Advisory Committee:
 - 1. A notarized statement by the applicant that the applicant has become a resident of New Jersey within the preceding six months; and
 - 2. Proof that the applicant holds a current and valid license to practice audiology and/or speech-language pathology in another state.
- (b) An individual who requires a temporary license in order to commence a clinical internship shall submit to the Committee:
 - 1. An application for temporary licensure;
 - 2. A supervision plan signed by the applicant and supervisor;
 - 3. Proof that the applicant has met the requirements of N.J.A.C. 13:44C-3.2(a)1; and
 - 4. Proof that the applicant has met the educational requirements of N.J.A.C. 13:44C-3.3 or 3.4.

13:44C-5.3 Limits on temporary licensure

- (a) A temporary license for a recent resident is valid for one year and cannot be renewed.
- (b) A temporary license for individuals participating in a clinical internship is valid for 18 months or until such time as the holder completes his or her clinical internship, whichever comes first. The temporary license cannot be renewed.

SUBCHAPTER 6. CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS

13:44C-6.1 License renewal

No license renewal shall be issued by the Director until the applicant confirms on the renewal application that the applicant has completed Committee-approved continuing education pursuant to N.J.A.C. 13:44C-6.2 during the two calendar years preceding application for renewal. Such continuing education is a mandatory requirement for license renewal.

13:44C-6.2 Allocation of credit

- (a) Evidence of 20 documented hours of Continuing Professional Education shall be required biennially of each applicant for renewal.
- (b) Credit for all Continuing Professional Education will be granted as follows for each two-year period:

1. Giving a new seminar or lecture or in-service workshop: one hour per contact hour up to a maximum of 10 hours.
 - i. “New” means new to the person presenting a seminar, lecture or in-service workshop; a seminar, lecture or in-service workshop which the licensee has never presented before in any setting.
 - ii. “Contact hour” means one hour of actual presence in or participation in a course of study.
 2. Teaching a new graduate course: six hours for each new course up to a maximum of 12 hours.
 - i. “New” means new to the person teaching it; a course which the licensee has never taught before in any educational setting.
 3. Publication in a national journal of a copyrighted article in audiology or speech-language pathology: three hours per publication to a maximum of six hours.
 4. Attendance at seminars and conferences: one hour per contact hour.
 5. Self-Assessment Home Study courses accompanied by examination and sponsored by a nationally-recognized professional organization in audiology or speech-language pathology: maximum of 10 hours.
 6. Successful completion of graduate course work taken beyond that required for professional license: one hour per contact hour.
- (c) “Documented” means that the applicant obtains a certificate of participation, a signed document by the instructor indicating attendance or an official transcript from an accredited college or university.

13:44C-6.3 Documentation of continuing education credits

- (a) A licensee shall keep comprehensive records of the continuing education hours which the licensee completes in order to verify program attendance or activity completion. Each licensee shall submit such documentation to the Advisory Committee upon its request.
- (b) The licensee shall verify attendance at approved continuing education programs by a certificate of attendance or by a statement from the instructor of the offering. The verification shall include the name of the licensee, the name of the sponsor, the title, location and date of the offering, the signature of a program official and the number of continuing education hours.
- (c) The licensee shall verify individual activities by retaining the following:
 1. For publications, a copy of the published article;
 2. For presentations, copies of the program, syllabus, outlines and bibliographies; and
 3. For teaching appointments, copies of the syllabus, bibliography, course outline and verification from the academic institution that the course was not previously taught by the licensee.
- (d) A licensee shall verify completion of academic coursework by an official transcript.
- (e) A licensee shall maintain verification records for five years following the renewal period for which the Advisory Committee has granted the licensee or certificate holder continuing education credit.

13:44C-6.4 Excess hours credited to subsequent renewal period

In the event that a candidate for license renewal shall complete in two years a number of hours in excess of the number required in N.J.A.C. 13:44C-6.1, a maximum of five hours in excess of those required shall be credited toward license renewal requirements for subsequent years; provided, however, that the five hours were earned within the six months immediately prior to license renewal.

13:44C-6.5 Waiver of requirements; appearance

The director may, at his or her discretion, or upon the recommendation of the Advisory Committee, waive any of the requirements of this subchapter for due cause. An appearance before the Advisory Committee may be required.

13:44C-6.6 Subjects; sponsors

- (a) Acceptable Continuing Professional Education shall be in any of the following areas: anatomy and physiology relative to communication; human development; human communication; identification, prevention, diagnosis and treatment of communication disorders; acoustical or electrical science relative to communication disorders; health administration relative to communication disorders.
- (b) The Continuing Professional Education hours must be accredited by the New Jersey Commission on Higher Education, or accredited or sponsored by a local, state or national audiology and speech-language pathology professional organization, local, state, or Federal education or health agency, or a local, state or national medical, psychological, dental or similar professional organization. Courses accepted for credit by the National Registry on Continuing Education or by the American Speech-Language-Hearing Association will be given credit by the Committee as set forth in N.J.A.C. 13:44C-6.2.

SUBCHAPTER 7. AUTHORIZED PRACTICE

13:44C-7.1 Scope of practice--audiology

- (a) The practice of audiology includes, but is not restricted to, the following functions:
 - 1. Providing screening, identification, assessment, diagnosis, treatment, intervention (that is, prevention, restoration, amelioration, compensation), consultation, counseling, and follow-up services for disorders of the peripheral, vestibular and central auditory systems, and other neural systems;
 - 2. Supervision and conduct of newborn hearing screening programs;
 - 3. Measurement and interpretation of sensory and motor evoked potentials, electronystagmography, and other electrodiagnostic tests for purposes of neurophysiologic intraoperative monitoring and cranial nerve assessment;
 - 4. Provision of hearing care by selecting, evaluating, fitting, facilitating, dispensing and adjusting prosthetic devices for hearing loss (that is, FM assistive listening devices), except for the fitting and dispensing of hearing aids unless licensed by the Hearing Aid Dispensers Examining Committee;
 - 5. Assessment of candidacy of persons with hearing loss for cochlear implants and provision of fitting, programming, and audiological rehabilitation to optimize device use;
 - 6. Provision of audiological rehabilitation including speech-reading, communication management, language development, auditory skill development, and counseling for psychosocial adjustment to hearing loss for persons with hearing loss and their families and caregivers; case management and service as a liaison between the consumer, family, and agencies in order to monitor audiologic status and management and to make recommendations about educational and vocational programming;
 - 7. Consultation with educators as members of interdisciplinary teams about communication management, educational implications of communication disorders, educational programming, classroom acoustics, and large-area amplification systems for children with hearing loss; consultation about accessibility for persons with hearing loss in public and private buildings, programs, and services;
 - 8. Prevention of hearing loss and conservation of hearing function by designing, implementing and coordinating occupational, school, and community hearing conservation and identification programs;
 - 9. Screening of speech-language, use of sign language, and other factors affecting communication function for the purposes of an audiological evaluation and/or initial identification of individuals with other communication disorders; and
 - 10. Assessment and nonmedical management of tinnitus using biofeedback, masking, education, and counseling.

13:44C-7.2 Scope of practice--speech-language pathology

- (a) The practice of speech-language pathology includes, but is not restricted to, the following functions:
1. Providing screening, identification, assessment, diagnosis, treatment, intervention (that is, prevention, restoration, amelioration, compensation), consultation, counseling, and follow-up services for disorders of:
 - i. Speech which includes articulation, fluency, and voice (including respiration, phonation, and resonance);
 - ii. Language which includes disorders of receptive and expressive communication in oral, written, graphic, and manual modalities;
 - iii. Oropharyngeal and related functions (that is, dysphagia, orofacial myofunctional disorders);
 - iv. Cognitive aspects of communication which includes communication disability and other functional disabilities associated with cognitive impairment; and
 - v. Pragmatic aspects of communication;
 2. Training and supporting family members and other communication partners of individuals with speech, voice, language, other communication, and swallowing disabilities;
 3. Developing and establishing effective augmentative and alternative communication techniques and strategies, including selecting, prescribing, and dispensing of aids and devices and training individuals, their families, and other communication partners in their use;
 4. Selecting, fitting, and establishing effective use of appropriate prosthetic/adaptive devices for speaking and swallowing (that is, tracheoesophageal valves, electrolarynges, speaking valves);
 5. Providing aural rehabilitation and related counseling services to individuals with hearing loss and central auditory processing dysfunction and to their families;
 6. Conducting pure-tone air conduction hearing screening and noninvasive screening tympanometry for the purpose of initial identification and/or referral of individuals with other communication disorders or possible middle ear pathology;
 7. Enhancing speech and language proficiency and communication effectiveness, including, but not limited to, accent reduction, collaboration with teachers of English as a second language, and improvement of voice, performance, and singing; and
 8. Consulting with educators as members of interdisciplinary team about communication management, educational implications of communication disorders, educational programming, and classroom accommodations for children with communication disorders.

13:44C-7.2A Scope of Practice: Fiber Optic Endoscopic Examination of Swallowing (FEES)

- (a) The purpose of this section is to set forth standards for the performance of Fiber Optic Endoscopic Examination of Swallowing (FEES) by a licensed speech-language pathologist. FEES is within the scope of practice of a speech-language pathologist who meets the requirements of this section.
- (b) The following words and terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise: "FEES" means a fiber optic endoscopic examination of swallowing.
- (c) FEES shall only be performed by a licensed speech-language pathologist who is certified in Basic Life Support (BLS) and who has:
1. Completed a 12-hour seminar or workshop in fiber optic endoscopy as a technique for investigating swallowing which qualifies for American Speech-Language-Hearing Association (ASHA) continuing education credit and which includes instruction in:
 - i. Medical contraindications and possible adverse reactions to FEES, including the use of topical anesthesia to the nares; and

- ii. Recognizing patient distress and appropriate actions to take if complications are encountered;
 - 2. Observed 10 FEES procedures performed by either a speech pathologist who has met the requirements of this section or a physician, at a licensed healthcare facility that requires that healthcare professionals have privileges to perform the FEES procedure; and
 - 3. Successfully performed 25 FEES procedures under the supervision of a speech pathologist who has met the requirements of this section or a physician, at a licensed healthcare facility that requires that a healthcare professional have privileges to perform the FEES procedure.
- (d) A licensed speech-language pathologist shall only perform FEES in a healthcare facility licensed by the Department of Health and Senior Services or in the office of a physician who received training during residency in endoscopic examination.
- (e) FEES shall only be performed when a physician who received training during residency in endoscopic examination is present.
- (f) FEES shall only be performed upon the written request of a physician.

13:44C-7.3 Business interest of unlicensed persons

- (a) An unlicensed individual may have a business interest in a corporation, partnership, trust, association or other like organization that provides audiology or speech-language pathology services or both, if the provision of direct clinical services is done by licensed audiologists or speech-language pathologists, as appropriate. Nothing in this section shall be construed to mean that such unlicensed person may provide direct clinical services.
- (b) Such unlicensed person shall file a statement with the director on a form approved by the director.

13:44C-7.4 Exemptions

- (a) The following are exempt from the provisions of this chapter, pursuant to N.J.S.A. 45:3B-17:
- 1. Any person currently licensed to practice medicine and surgery by this State, provided such a person is not referred to as an audiologist or speech-language pathologist or other similar title.
 - 2. Persons employed by and under the direct supervision of a physician, provided such person is not referred to as an audiologist or speech-language pathologist or other similar title.
 - 3. Persons employed by a Federal agency when services are performed as part of the person's duties with that agency. However, such person is not exempt under this section for that portion of his or her time spent as a private practitioner or providing services for which a fee may be paid by a recipient of the service.
 - 4. Any person certified as a speech correctionist or its successor title, speech-language specialist, by the State Department of Education. However, such person is not exempt under this section for that portion of his or her time spent as a private practitioner or providing services for which a fee may be paid by a recipient of the service.
 - 5. Students and trainees in audiology or speech-language pathology enrolled in an accredited college or university, provided that their services constitute part of their course of study and on-site supervision by a licensee is provided in the appropriate professional field.
 - 6. Any person who is engaged in an activity for which he or she is licensed to perform in New Jersey, as long as such person does not refer to him- or herself as an audiologist or speech language pathologist.
 - 7. Persons licensed by this State as a hearing aid dispenser pursuant to P.L. 1973, c. 19 (N.J.S.A. 45:9A-1 et seq.) who are engaged in activities and services within the scope of practice of a hearing aid dispenser, provided that such person does not refer to himself or herself as an audiologist or speech-language pathologist.

SUBCHAPTER 8. STANDARDS FOR PROFESSIONAL CONDUCT

13:44C-8.1 Recordkeeping

- (a) Licensees shall maintain written, contemporaneous patient records which include:
 - 1. Findings upon initial examination including the patient's significant past history and results of appropriate tests and measures;
 - 2. A written plan of care indicating the goals of the treatment program, the type of treatment, and the frequency and expected duration of treatment for audiology and/or speech-language pathology services;
 - 3. Dated and signed documentation of each treatment rendered;
 - 4. Dated and signed progress notes;
 - 5. Documentation of any changes in the treatment program;
 - 6. Documentation of any contact with other health professionals relative to the patient's care;
 - 7. A discharge summary which includes the reason for discharge and the outcome of services rendered; and
 - 8. Any pertinent legal document such as patient release forms or charge access sheets.
- (b) Treatment records for patients shall be maintained for at least seven years from date of the most recent entry. Records for minors shall be kept for seven years from the date of the most recent entry or until the patient turns 20 years old, whichever is longer.
- (c) Licensees shall provide access to patient treatment records to a patient or person whom the patient has designated to receive records in accordance with the following:
 - 1. No later than 30 days from receipt of a request from a patient or a person whom the patient has designated to receive records, the licensee shall provide a copy of the professional treatment record and/or billing records as may be requested. The record shall include all pertinent objective data including test results, as applicable, and subjective information;
 - 2. The licensee may require that a record request be in writing and may charge a fee for the reproduction of records, which shall be no greater than \$1.00 per page or \$100.00 for the entire record, whichever is less. If the record requested is less than 10 pages, the licensee may charge up to \$10.00 to cover postage and the costs associated with retrieval of the record;
 - 3. If the patient or a subsequent treating health care professional is unable to read the patient record, either because it is illegible or prepared in a language other than English, the licensee shall, upon request, provide an English transcription at no cost to the patient; and
 - 4. The licensee shall not refuse to provide a patient record on the grounds that the patient owes the licensee an unpaid balance.
- (d) All licensees shall prepare, within 30 days of a written request from a patient or any person whom the patient has designated to receive such, a written report summarizing the information set forth in (a) above.

13:44C-8.2 Calibration log

- (a) All licensees shall document that audiometric test equipment is calibrated according to the American National Standard Specification for Audiometers (ANSI S3.6-1996, 1996), available from the Acoustical Society of America, 120 Wall Street, 32nd Floor, New York, New York 10005-3993, which is incorporated herein by reference, as amended and supplemented.
- (b) Licensees shall electronically calibrate audiometric test equipment pursuant to (a) above, at least once a year.

13:44C-8.3 Prohibited fees

- (a) Licensees shall not require a patient or a third party payor to pay a separate fee for the preparation of an insurance claim form.
- (b) Licensees shall not require a patient or a third party payor to pay interest on an unpaid account unless the patient has been notified of this policy in writing prior to the initiation of audiology or speech-language pathology services.
- (c) Licensees shall not require a patient or a third party payor to pay a full or partial fee for unkept appointments unless the patient has been notified of this policy in writing prior to the initiation of audiology or speech-language pathology services.
- (d) Licensees shall not require a patient or a third party payor to pay for any evaluation, testing, treatment or other services not documented in a patient chart.
- (e) Licensees shall not charge a fee to a patient or a third party payor for audiology or speech-language pathology services which are unwarranted and unnecessary.

13:44C-8.4 Providing fees and posting license

- (a) All licensees shall provide a written fee schedule which describes charges for each service offered to any person upon request.
- (b) All licensees shall post in a conspicuous place a copy of a licensee's biennial renewal certificate.

13:44C-8.5 Advertising

- (a) Licensees shall not use any form of public communication regarding professional services, via print, electronic media or in-person solicitation which contains a false, fraudulent, misleading or deceptive statement or claim. A false, fraudulent, misleading or deceptive statement includes any statement or claim which:
 - 1. Contains a misrepresentation of fact;
 - 2. Is likely to mislead or deceive because it fails to make full disclosure of relevant facts;
 - 3. In the case of a testimonial containing an objective, verifiable statement of fact, cannot be verified by the advertiser;
 - 4. Is intended or is likely to create a false or unjustified expectation of favorable results, for example, advertising percentages of success;
 - 5. Implies educational attainments or licensing recognition not supported in fact;
 - 6. States or implies that the licensee has received formal recognition as a specialist in any aspect of the practice of audiology or speech-language pathology if this is not the case;
 - 7. Represents that the professional services can or will be competently performed for a stated fee when this is not the case, or makes a representation with respect to fees for professional services that does not disclose all variables affecting the fees that will in fact be charged;
 - 8. Uses techniques of communication which in light of the setting and circumstances appear to intimidate or exert undue influence or undue pressure over a prospective patient;
 - 9. Contains offers of discounts for services without stating the advertiser's usual and customary fee on which the discount will be taken, or the availability of a schedule of the licensee's usual and customary fees, and the period of time during which the offer can be accepted by a prospective patient. If no time limit is specified, such offer shall be deemed to apply for 30 days; or
 - 10. Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to be misled or be deceived.

- (b) All advertisements shall contain the name, address and license number of the licensee or the licensee in charge of the business.
- (c) An advertisement may contain either a lay or an expert testimonial, provided that such testimonial is based upon personal knowledge or experience obtained from a provider relationship with the licensee or direct personal knowledge of the subject matter of the testimonial and:
 - 1. A lay person's testimonial does not attest to any technical matter beyond the testimonial giver's competence to comment upon; and
 - 2. An expert testimonial is only rendered by an individual possessing specialized expertise sufficient to allow the rendering of a bona fide statement or opinion.
- (d) Copies of all printed advertisements and video or audio tapes of every advertisement communicated by electronic media shall be retained by the licensee for a period of three years. All advertisements in a licensee's records shall indicate the date and place of publication.
- (e) A licensee shall make records of advertisements available for review by the Committee or its designee upon request.

13:44C-8.6 Excessive fees

- (a) Licensees shall not charge a fee to a patient or a third party payor which is excessive.
- (b) Factors which may be considered in determining whether a price is excessive include:
 - 1. The novelty and difficulty of the professional treatment provided;
 - 2. The skill and equipment required to perform the treatment properly;
 - 3. Any requirements or conditions imposed by the patient or by the circumstances;
 - 4. The nature and length of the professional relationship with the patient;
 - 5. The experience, reputation and ability of the licensee performing the services; and
 - 6. The nature and the circumstances under which the services were provided (for example, emergency; home visit).

13:44C-8.7 Professional practices

- (a) Licensees shall perform only those functions that are within the scope of their competence considering their level of education, training, and experience.
- (b) The following acts or professional practices shall be deemed to be unprofessional conduct:
 - 1. Offering, agreeing to provide or providing any payment or other form of remuneration to any person or entity authorized to direct the initiation of speech-language pathology or audiology services for a referral of any specific patient or any number of patients;
 - 2. Accepting payment or other form of remuneration from any person or entity authorized to direct the initiation of audiology or speech-language pathology services for the referral of any patient;
 - 3. Receiving from any person, firm, partnership or corporation a fee or other form of remuneration for prescribing, recommending, ordering or promotion of the sale of a device, appliance or other item or service, unless such interest is made known in writing to the person for whom the device or appliance is being ordered, prescribed or recommended. Nothing herein shall preclude a licensed speech-language pathologist or audiologist from accepting a product or commodity which can be used as a sample by patients, provided that the speech-language pathologist or audiologist does not charge patients for items so obtained;
 - 4. Knowingly using audiometric test equipment that is not calibrated according to the American National Standard Specification for Audiometers (ANSI S3.6-1996, 1996), available from the Acoustical Society of America, 120 Wall Street, 32nd Floor, New York, New York 10005-3993, which is incorporated herein by reference, as amended and supplemented;

5. Conducting a test in an environment that does not meet nationally recognized standards for maximal permissible background sound from the American National Standard Maximum Permissible Ambient Noise Levels for Audiometric Test Rooms (ANSI S3.1-1991, 1991), available from the Acoustical Society of America, 120 Wall Street, 32nd Floor, New York, New York 10005-3993, which is incorporated herein by reference, as amended and supplemented. If a patient cannot, due to health problems, be moved to a testing environment that meets these standards the licensee shall test the patient within the available environment and the testing conditions shall be documented in the patient's record;
6. Offering to render or rendering treatment or offering to conduct or conducting testing which in light of the patient's history and findings is unwarranted and unnecessary; or
7. Representing oneself as a physician rendering medical opinion or medical services.

SUBCHAPTER 9. UNLICENSED PRACTICE

13:44C-9.1 Acts amounting to unlicensed practice

- (a) The following acts or practices shall be deemed to be the unlicensed practice of audiology or speech-language pathology and may warrant the director's initiation of an action in Superior Court for such appropriate injunctive relief as may be authorized by N.J.S.A. 45:3B-15:
 1. Offering of any speech-language pathology or audiology services by any person who does not hold the applicable license as a speech-language pathologist or audiologist or is not exempt from licensure pursuant to N.J.A.C. 13:44C-7.2;
 2. Using the words "speech-language therapy," "speech therapy," "audiology," "speech pathologist," "audiologist" or such similar words or their related abbreviations by any person who does not hold the appropriate license in speech-language pathology or audiology; or
 3. Billing any patient or third party payor for "speech-language pathology evaluation" or "speech-language pathology therapy" or "audiologic evaluation" or "audiologic services" or services described by similar words if the individual providing the service does not hold the appropriate license to practice audiology or speech-language pathology or is not a licensed physician.

13:44C-9.2 Aiding and abetting unlicensed practice

It shall be unlawful for a licensee to aid or assist any person in engaging in any of the acts identified in N.J.A.C. 13:44C-9.1.

SUBCHAPTER 10. DISCIPLINARY ACTIONS

13:44C-10.1 Suspension and revocation of license

- (a) The Director, in consultation with the Committee, may revoke, suspend or refuse to renew the license of any person licensed under the provisions of this chapter or assess a civil penalty or issue a reprimand, upon proof that the licensee:
 1. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;
 2. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
 3. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;

4. Has engaged in repeated acts of negligence, malpractice or incompetence;
 5. Has engaged in professional or occupational misconduct as may be determined by the director;
 6. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the practice of audiology or speech-language pathology. For the purpose of this subsection, a judgment of conviction or plea of guilty, non vult, nolo contendere or other such disposition of alleged criminal activity shall be deemed a conviction;
 7. Has had his authority to engage in the practice of audiology or speech-language pathology revoked or suspended by any other state, agency or authority for reasons consistent with this section;
 8. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;
 9. Has violated or failed to comply with any of the provisions of N.J.S.A. 45:3B-1 et seq. or N.J.A.C. 13:44C;
 10. Has violated any provision of P.L. 1983, c.320 (N.J.S.A. 17:33A-1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L. 1983, c.320 (N.J.S.A. 17:33A-1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;
 11. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term "presently" means at this time or any time within the previous 365 days;
 12. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the Board, or aided and abetted an unlicensed person or entity in performing such an act; or
 13. Has violated the provisions of N.J.A.C. 13:44C-8.5.
- (b) In addition to the consequences listed in (a) above, the Director may impose additional or alternative penalties pursuant to N.J.S.A. 45:1-14 et seq. for violations of any provision of N.J.S.A. 45:3B-1 et seq. and this subchapter.
- (c) In addition to the express consequences of (a) and (b) above, the Director may enforce consequences arising from actions taken by other statutory authorities.
- (d) The denial, refusal to issue or renew, suspension or revocation of a license, and/or the issuance of a civil penalty under this section may be ordered by a decision of the Director after notice and an opportunity to

be heard pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

13:44C-10.2 Reinstatement

The Director, in consultation with the Advisory Committee, may restore a license after one year from the date of its revocation.

TITLE 13. LAW AND PUBLIC SAFETY
CHAPTER 45C. UNIFORM REGULATIONS

SUBCHAPTER 1. LICENSEE DUTY TO COOPERATE AND TO COMPLY WITH BOARD ORDERS

13:45C-1.1 Applicability, scope and definitions

- (a) This subchapter shall apply to all licensees of any board, committee or sub-unit within the Division of Consumer Affairs.
- (b) For the purpose of this subchapter, “licensee” shall mean any licensee, permittee, certificate holder or registrant of:
 - 1. The Division of Consumer Affairs;
 - 2. Any professional or occupational licensing board, committee, or other subunit of a board or committee located within the Division; or
 - 3. The Office of Consumer Protection; or
 - 4. The Legalized Games of Chance Control Commission.

13:45C-1.2 Licensee’s duty to cooperate in investigative inquiries

- (a) A licensee shall cooperate in any inquiry, inspection or investigation conducted by, or on behalf of, a board, the Director or the licensee’s licensing agency into a licensee’s conduct, fitness or capacity to engage in a licensed profession or occupation where said inquiry is intended to evaluate such conduct, fitness or capacity for compliance with applicable statutory or regulatory provisions.
- (b) A licensee’s failure to cooperate, absent good cause or bona fide claim of a privilege not identified in N.J.A.C. 13:45C-1.5 as unavailable, may be deemed by the board, the Director, or the licensing agency to constitute professional or occupational misconduct within the meaning of N.J.S.A. 45:1-21(e) or the agency’s enabling act and thus subject a licensee to disciplinary action pursuant to N.J.S.A. 45:1-21(h) or the agency’s enabling act.

13:45C-1.3 Specific conduct deemed failure to cooperate

- (a) The following conduct by a licensee may be deemed a failure to cooperate and, therefore, professional or occupational misconduct and grounds for disciplinary action including, but not limited to, suspension or revocation of licensure:
 - 1. The failure to timely respond to an inquiry to provide information in response to a complaint received concerning licensee conduct;
 - 2. The failure to timely provide records related to licensee conduct;
 - 3. The failure to attend any scheduled proceeding at which the licensee’s appearance is directed. In the event that a licensee elects to retain counsel for the purpose of representation in any such proceeding, it shall be the licensee’s responsibility to do so in a timely fashion. The failure of a licensee to retain counsel, absent a showing of good cause therefor, shall not cause an adjournment of the proceeding;
 - 4. The failure to timely respond or to provide information requested pursuant to a demand under N.J.S.A. 45:1-18 or other applicable law or to provide access to any premises from which a licensed profession or occupation is conducted. Included within this paragraph shall be the failure to respond to any demand for statement or report under oath, the failure to permit the examination of any goods, ware or item used in the rendition of the professional or occupational service and the failure to grant access to

- records, books or other documents utilized in the practice of the occupation or profession;
5. The failure to answer any question pertinent to inquiry made pursuant to N.J.S.A. 45:1-18 or other applicable law unless the response to said question is subject to a *bona fide* claim of privilege;
 6. The failure to make proper and timely response by way of appearance or production of documents to any subpoena issued pursuant to N.J.S.A. 45:1-18 or as may otherwise be provided by law; or
 7. The failure to provide to the Board, the Director or the licensing agency timely notice of any change of address from that which appears on the licensee's most recent license renewal or application.

13:45C-1.4 Failure to comply with Board orders as professional or occupational misconduct

The failure of a licensee to comply with an order duly entered and served upon the licensee or of which the licensee has knowledge shall be deemed professional or occupational misconduct.

13:45C-1.5 Unavailability of privileges in investigative or disciplinary proceedings

- (a) In any investigative inquiry conducted pursuant to N.J.S.A. 45:1-18 or in any disciplinary proceeding conducted pursuant to N.J.S.A. 45:1-21, or as may otherwise be authorized by law, the physician-patient privilege, psychologist-patient privilege, marriage and family therapist-client privilege, professional counselor-client privilege, associate counselor-client privilege, social worker-client privilege and the alcohol and drug counselor-client privilege shall be unavailable.
- (b) Any statements or records otherwise subject to a claim of the stated privileges which may be obtained by the Board, its agent or the Attorney General pursuant to N.J.S.A. 45:1-18 shall remain confidential and shall not be disclosed unless so ordered by a court of competent jurisdiction, the appropriate licensing board or the Office of Administrative Law in a contested case.

13:45C-1.6 Maintenance of and access to statements, records or other information that is subject to a privilege declared unavailable

- (a) Any statements, records or other information which may be subject to any privilege declared unavailable in this subchapter shall be maintained in a secure place and manner by:
 1. The evidence custodian within the Division of Consumer Affairs, Enforcement Bureau;
 2. The professional or occupational licensing board and the committee or other subunit of a board or committee located within the Division which has a direct connection with, or a need for access to, the matter to which the statements, records or other information pertain; or
 3. A Deputy Attorney General.
- (b) Except as may be otherwise ordered as provided in the subchapter, access to statements, records or other information shall be afforded only to employees and agents of, and experts or other consultants retained by, the Attorney General, the Enforcement Bureau, or the Board or other subunit of the Division having a direct connection with, or a need for access to, the matter to which the statement, records or other information pertain.
- (c) The statements, records or other information may be retained for the period of time during which an investigation remains open or until the completion of all administrative or judicial proceedings relating thereto, at which time they may be returned to the licensee or other person from whom they were obtained. In the absence of such licensee or other person, the statements, records or other information may be returned to the patient, where appropriate.